

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

Ronald Hedlund,

Plaintiff,

v.

Civil Action No. 3:23-cv-00631

Matthew Mulheim, et. al.

BRIEF IN SUPPORT OF MOTION TO CORRECT MISNOMER

Comes now the Plaintiff, by counsel, and in support of the motion to correct a misnomer, states as follows.

The Complaint [Doc. 1] and, consequently, the docket and some of the pleadings' captions in this case identify certain Defendants by the names of "Matthew Mulheim," "Clarke Mercer", and "Steven Pike" This was a misnomer. The correct name of these Defendants are "**Matthew Muhlheim**," "**Clark Mercer**," and "**Anthony Pike**." To avoid confusion, and to properly either serve or obtain a waiver of service of process and to bring these Defendants properly within the jurisdiction of this Court the Plaintiff requests an order deeming the misnomer corrected and directing the Clerk to correct the defendants' name on the docket as "Matthew Muhlheim," "Clark Mercer," and "Anthony Pike."

Federal Rule of Civil Procedure 60(a) allows this Court to correct a mistake arising from oversight in any part of the record. This power has been used by the Eastern District of Virginia to correct misnomers of parties' names. *Brown v. Clements*, Civil Action No. 3: 15cv104, 2015 U.S. Dist. LEXIS 127806, at *1 n.1 (E.D. Va. Sep. 23, 2015). While this Court has the power and discretion to require the Plaintiff to file an amended complaint with the correction, and the Plaintiff will be glad to comply if that is the Court's wish, the Eastern District of Virginia has shown a ready willingness to correct misnomers without the formal requirements of an amended

complaint. *See, e.g., Belisle v. Baxter*, Civil Action No. 3:18cv514, 2019 U.S. Dist. LEXIS 83902, at *1 n.1 (E.D. Va. May 16, 2019) (correcting a misnomer based on the agreement of the parties, even in the absence of an formal motion to amend); *Brown*, Civil Action No. 3: 15cv104, 2015 U.S. Dist. LEXIS 127806, at *1 n.1 (relying on FRCP 60(a)); *LaCroix v. City of Portsmouth*, Civil Action No. 2:13cv533, 2014 U.S. Dist. LEXIS 193634, at *2-3 (E.D. Va. Oct. 24, 2014) (citing FRCP 15(a)(2) regarding amended complaints, but granting the motion to correct without an amended complaint). *Cf. Simpson v. Virginia*, No. 1:16cv162 (JCC/TCB), 2016 U.S. Dist. LEXIS 95579, at *31 n.4 (E.D. Va. July 21, 2016) (disregarding a misnomer in a caption of a case identifying John Doe defendants).

Wherefore, the Plaintiff requests the Court to grant this motion to correct the misnomer and to deem the names ““Matthew Mulheim,” “Clarke Mercer”, and “Steven Pike” as used in the Complaint [Doc. 1] and elsewhere in the record as corrected to “Matthew Muhlheim,” “Clark Mercer,” and “Anthony Pike” and to direct the Clerk to correct the Docket.

October 5, 2023

Respectfully submitted,

By: /s/ Jonathan M. Arthur, Esq.
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